

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 76, “Aggregate Tax Credit Limit for Certain Economic Development Programs,” Iowa Administrative Code.

These rules implement the new program authorized by 2009 Iowa Acts, Senate File 483. The rules describe the tax credit cap, the programs subject to the cap, the procedures for allocating the cap, and the reporting requirements.

The Iowa Economic Development Board adopted these rules on June 18, 2009.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable and contrary to the public interest because without the procedure for allocating the aggregate tax credit limit, as required by law, the Department would not be able to make awards to constituents under the programs subject to the cap.

The Department finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these rules should be waived and the rules be made effective on July 1, 2009, to correspond to the start of the state’s fiscal year. These rules confer a benefit on the public by not disrupting the operation of the programs subject to the tax credit cap.

These rules are also published herein under Notice of Intended Action as **ARC 7953B** to allow for public comment.

These rules became effective on July 1, 2009.

These rules are intended to implement 2009 Iowa Acts, Senate File 483.

The following amendment is adopted.

Adopt the following new 261—Chapter 76:

#### CHAPTER 76

#### AGGREGATE TAX CREDIT LIMIT FOR CERTAIN ECONOMIC DEVELOPMENT PROGRAMS

**261—76.1(83GA,SF483) Authority.** The authority for establishing rules governing the aggregate tax credit limit for certain economic development programs under this chapter is 2009 Iowa Acts, Senate File 483.

**261—76.2(83GA,SF483) Purpose.** The purpose of the aggregate tax credit limit for certain economic development programs is to limit the amount of tax credits awarded during a fiscal year.

**261—76.3(83GA,SF483) Definitions.**

“*Board*” means the Iowa economic development board established in Iowa Code section 15.103.

“*Department*” means the Iowa department of economic development.

**261—76.4(83GA,SF483) Amount of the tax credit cap.** The department shall not authorize tax credit awards made under the programs identified in rule 261—76.5(83GA,SF483) in excess of \$185 million per fiscal year.

**261—76.5(83GA,SF483) Programs subject to the cap.**

**76.5(1)** Awards made under the following economic development programs are subject to the tax credit cap:

- a. The assistive device tax credit program.
- b. The enterprise zone program (business and housing awards).
- c. The film, television, and video project promotion program.
- d. The high quality jobs program.

**76.5(2)** In addition to the programs listed in subrule 76.5(1), the corporate tax research credit under the quality jobs enterprise zone program is also subject to the tax credit cap pursuant to 2009 Iowa Acts, Senate File 483, but this program is no longer utilized by the department. The quality jobs enterprise zone program was replaced with the high quality jobs program.

**261—76.6(83GA,SF483) Allocating the tax credit cap.** At a scheduled meeting of the board prior to the start of a fiscal year, the board will allocate \$185 million among the programs listed in rule 261—76.5(83GA,SF483). The board is not required to allocate a portion of the cap to every program listed. The board may allocate a portion of the cap that is shared by other programs with a common purpose, for example, the business awards made under the enterprise zone program and high quality jobs program. Throughout the fiscal year, the board may review the allocation as necessary, but shall review the allocation at least one time during the fiscal year. Based on its review, the board may make adjustments to the allocation as deemed necessary.

**261—76.7(83GA,SF483) Exceeding the cap.** When the department recommends one or more awards that, when combined with awards already approved during the fiscal year, exceed the \$185 million cap, the board may authorize the department to exceed the cap and approve the award. The aggregate award amount in excess of \$185 million will be counted against the tax credit cap for the following fiscal year.

**261—76.8(83GA,SF483) Reporting to the department of revenue.** The department shall submit an initial report to the department of revenue by August 15, 2009, which shows the initial allocation of the \$185 million cap. At the start of each subsequent fiscal year, the department shall prepare a report to summarize final allocation for the fiscal year that just ended, the total amount of awards made under each program identified in rule 261—76.5(83GA,SF483) during that fiscal year, and the initial allocation for the current fiscal year. The report shall be submitted to the department of revenue on or before August 15 of each year.

These rules are intended to implement 2009 Iowa Acts, Senate File 483.

[Filed Emergency 6/22/09, effective 7/1/09]

[Published 7/15/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/09.